HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 8111 OF 2002

BETWEEN

R. Venkatram Reddy

.....**Petitioner**

And

Union of India
Rep. by its Deputy Secretary,
Ministry of Home Affairs,
NewDelhi & another

.....**Respondents**

:: O R D E R::

Counsel for the Petitioner : Shri A. Rajendra Babu

Counsel for Respondent No.1 : Shri A. Rajasekhar Reddy

Counsel for Respondent No.2 : Government Pleader for Revenue

Dated: 22.08.2006

This is the second round of litigation by the petitioner, who has prayed for quashing communication dated 15.06.2001 issued by the Government of India, Ministry of Home Affairs rejecting his claim for grant of pension under the Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme').

The petitioner's claim for pension is founded on the assertions made by him that he had taken part in Hyderabad Liberation Movement; that as a sequel to warrant of arrest issued by the competent authority of the Government of Nizam, he had gone underground and that he remained underground for a period of

six months. He has questioned the legality of communication dated 15.06.2001 by asserting that the reasons contained therein are extraneous and irrelevant. According to him, the dispute raised by the respondents on the issue of his having remained underground for a period of six months is untenable. He has placed on record copy of letter No.57058/FF.II/A2/96-1 dated 28.09.1996 sent by Secretary to Government of India, Revenue (FF.I) to Deputy Secretary to Government of India, Ministry of Home Affairs confirming issue of arrest warrant and averred that grant of freedom fighters pension to Shri Kondala Reddy whose name appears at Sl.No.2 in letter dated 28.09.1996 should be treated as sufficient for quashing order dated 15.06.2001 and for issue of a mandamus to the respondents to pay him pension under the 1980 Scheme.

In the counter-affidavit of Shri S.D. Kaushik, Under Secretary to the Government of India, Ministry of Home Affairs, the following reasons have been assigned for not entertaining the petitioner's claim.

(a) Documents submitted by the petitioner had not been categorically verified to be authentic by the State Government.

(b) State Government had merely forwarded the translation of the said documents.

(c) Doubts raised about the authenticity of the documents/lists enclosed with the documents had not been satisfactorily replied by the State Government.

(d) The lists enclosed with the documents were not signed by

the authority issuing the letter, which creates doubts about their genuineness.

(e) The documents produced do not disclose complete details like particulars of the case, date of disposal, its final outcome etc.

(f) The documents give no indication as to how long, if at all, the petitioner remained underground.

(g) There is no indication that the orders for arrest were issued for participation in freedom movement or for participating in Hyderabad Liberation Movement.

(h) There was every possibility of any person enclosing any list to the covering letter to get benefits under the pension Scheme.

I have heard learned counsel for the parties and perused the record. During the course of arguments, I asked the learned counsel to show the detention order issued by the competent authority of the erstwhile State of Hyderabad pursuant to which his client had remained underground, but he could not produce the original or authenticated copy of the detention order. He, however, produced xerox copy of some communication sent by Section Officer of Home Department of the Government of Andhra Pradesh, which is accompanied by a list of persons against whom detention orders are said to have been issued. Learned counsel wanted the Court to accept the contents of the list and direct the respondents to entertain the petitioner's claim for grant of pension under the 1980 Scheme, but I have not felt persuaded to accept his submission. In my view, the petitioner's failure to produce any tangible evidence to show that he remained underground pursuant

to an order of detention passed by the competent authority constituted a valid ground for the Government of India not to entertain his claim. The petitioner has not offered any explanation as to why he is not in a position to produce copy of the arrest warrant despite the fact that in letter dated 28.09.1996 on which reliance has been placed by the learned counsel, a specific reference has been made to the production of arrest warrant by the petitioner. If the petitioner was in possession of the arrest warrant till the month of September 1996, it is difficult to appreciate his omission to place the same before the Court.

In the premise aforesaid, I hold that the petitioner has failed to make out a case for judicial interdiction with the decision taken by the Government of India not to entertain his claim for pension under the 1980 Scheme. Consequently, the writ petition is dismissed.

However, it is made clear that if the petitioner produces original or authenticated copy of detention order issued by the competent authority of Nizam Government, then the concerned authority of Government of India will sympathetically re-consider his claim for grant of pension under the 1980 Scheme.

G.S.SINGHVI, CJ

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22.08.2006